THE HONOURABLE SRI JUSTICE B. PRAKASH RAO
AND
THE HONOURABLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No.4203 of 2005

Between:

M.L. Bhargavi, D/o. Prabhakara Sastry

… Petitioner

and

The Manager and Correspondent,
Sr. Divisional Personal Officer and two others

… Respondents

W.P.No.4301 of 2005

Between:

A. Srinivasa Murthy, S/o. A.V.G.V. Subba Rao

… Petitioner

and

The Manager and Correspondent,
Sr. Divisional Personal Officer and two others

… Respondents

THE HONOURABLE SRI JUSTICE B. PRAKASH RAO
AND
THE HONOURABLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No.4203 of 2005 and W.P.No.4301 of 2005

ORDER: (per Sri C.V.N.R.,J)

Petitioners in these two writ petitions questioned the order of the Central Administrative Tribunal, Hyderabad branch, Hyderabad ('the Tribunal' for short) in addition to the letters dated 26-02-2004 and 25-02-2005 respectively of the Senior Divisional Personnel Officer, S.C. Railway, Vijayawada.

The petitioners were originally appointed in the Railway Junior College, Vijayawada on 19-07-1993 and 18-08-1993 respectively as part time lecturers by Senior Divisional Personal Officer in pursuance of the notification issued on 23-06-1993. The appointment was on part time basis. However, the petitioners' services were terminated with

effect from 15-03-1994. The petitioners' case is that the respondents were giving them artificial breaks from time to time and as on the date of filing of the O.A., they were continuing in job as part time lecturers having been re-appointed. The petitioners' sought for regularization of their services as Junior Lecturers in the O.A. filed by them before the Tribunal. The Tribunal after considering the rival contentions of the parties, held that the appointment of the petitioners was purely contractual and that no case was made out on the basis of the staff strength of the institution for appointment of full time lecturers and that if at all the posts are sanctioned as per rules, they have to be filled up by normal process of DPC. While holding so, the Tribunal adverted to the letter dated 16-02-2003 addressed by the Principal of the College to the higher authorities, wherein he has requested to sanction regular posts of Junior Lecturers having regard to the work need. The Tribunal in the light of the said letter directed that the Railway Board shall consider the creation and sanction of the posts of full time lecturers in Civics and Hindi and that the cases of the petitioners along with some other persons, who filed applications before the Tribunal were directed to be considered in future.

Subsequent to the said order of the Tribunal, the Senior Divisional Personal Officer, Vijayawada issued letters dated 26-02-2005 and 25-02-2005 respectively engaging the petitioners as part time lecturers in Hindi and Civics with effect from 08-12-2004 subject to certain terms and conditions stipulated therein.

As afore mentioned, the petitioners had assailed the order of the Tribunal and the said letters dated 26-02-2005 and 25-02-2005 in this writ petition.

Heard the learned counsel for the petitioners and Sri R.S. Murthy, learned Standing Counsel for the respondents.

A perusal of the order of the Tribunal shows that it was held that in the absence of creation of regular post, the petitioners cannot claim regularization of their services. The Tribunal, in our opinion rightly

held that even if any post is created, the petitioners' case will not be automatically considered for regularization. As a specific procedure is laid down for making regular appointments, as and when regular vacancies are notified, it is always open to the petitioners to apply. The Tribunal has therefore, rightly directed that the respondent shall consider creation of the posts as recommended by the Principal in his letter dated 16-04-2003 and that as and when such posts are created, the respondents shall consider the case of the petitioners. We do not see any error in the order of the Tribunal. As regards, the challenge to the proceedings dated 26-02-2005 and 25-02-2005, wherein petitioners were again appointed as part time lecturers, if the petitioners are aggrieved by the said proceedings, they have to first approach the Tribunal as they give rise to a fresh cause of action and they cannot straight away invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

For the afore mentioned reasons, we dismiss the writ petitions with an observation that it is open to the petitioners to approach the Central Administrative Tribunal if they feel aggrieved by the proceedings dated 26-02-2005 and 25-02-2005 and for any other reliefs, which they may seek on the basis of the events that transpired subsequent to the order of the Tribunal, which is impugned in the present writ petitions.

Subject to the above observation, both the writ petitions are dismissed. No costs.

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B. PRAKASA RAO, J.

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C.V. NAGARJUNA REDDY, J.

Date: 22-11-2006
Note:
Issue C.C. within one week.
(B/O)
Rns.